

Hearing Date: August 12, 2010

Hearing Time: 10:00 a.m. (Prevailing Eastern Time)

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Reorganized Debtors

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
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DPH HOLDINGS CORP., <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
	:	(Jointly Administered)
Reorganized Debtors.	:	
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REORGANIZED DEBTORS' AMENDED AND RESTATED STATEMENT OF DISPUTED  
ISSUES WITH RESPECT TO PROOFS OF CLAIM NUMBERS 15679 AND 15681  
(FRY'S METALS, INC., A COOKSON ELECTRONICS COMPANY)

("AMENDED AND RESTATED STATEMENT OF DISPUTED ISSUES – FRY'S METALS")

DPH Holdings Corp. and certain of its affiliated reorganized debtors in the above-captioned cases (collectively, the "Reorganized Debtors"), hereby submit this Amended And Restated Statement Of Disputed Issues With Respect To Proofs Of Claim Numbers 15679 And 15681 filed by Fry's Metals, Inc., a Cookson Electronics Company ("Fry's Metal") (the "Amended Statement Of Disputed Issues") and respectfully represent as follows:

Background

1. On October 8 and 14, 2005 (the "Petition Dates"), Delphi Corporation ("Delphi") and certain of its affiliates (collectively, the "Debtors"), including Delphi Automotive Systems LLC ("DAS LLC"), predecessors of the Reorganized Debtors, filed voluntary petitions in this Court for reorganization relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended.

2. On July 31, 2006, Fry's Metal filed proof of claim no. 15679 ("Proof of Claim No. 15679") against Delphi. Proof of Claim No. 15679 asserts an unsecured non-priority claim in the amount of \$12,284.59 for the sale of goods ("Claim 15679").

3. On July 31, 2006, Fry's Metal filed proof of claim no. 15681 ("Proof of Claim No. 15681," together with Proof of Claim No. 15679, the "Proofs of Claim") against DAS LLC. Proof Of Claim No. 15681 asserts an unsecured non-priority claim in the amount of \$58,228.25 for the sale of goods ("Claim 15681," together with Claim 15679, the "Claims").<sup>1</sup>

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<sup>1</sup> On July 31, 2006, Fry's Metals also filed proof of claim number 15680 ("Proof of Claim No. 15680") against Delphi Connection Systems ("DCS"), asserting an unsecured non-priority claim in the amount of \$4,625.00 arising from goods sold ("Claim 15680") and proof of claim number 15682 ("Proof of Claim No. 15682") against Delphi Mechatronic Systems, Inc. ("Mechatronic"), asserting an unsecured non-priority claim in the amount of \$14,615.98 arising from goods sold ("Claim 15682"). On July 31, 2006, Specialty Coatings Systems Inc. ("Specialty Coatings") filed proof of claim number 15683 ("Proof of Claim No. 15683") against DAS LLC, asserting an unsecured non-priority claim in the amount of \$76,385.97 arising from goods sold ("Claim 15683").

4. On May 22, 2007, the Debtors objected to the Proofs of Claim pursuant to the Debtors' Fifteenth Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (A) Insufficiently Documented Claims, (B) Claims Not Reflected On Debtors' Books And Records, (C) Untimely Claims And Untimely Tax Claim, And (D) Claims Subject To Modification, Tax Claims Subject to Modification, And Modified Claims Asserting Reclamation (Docket No. 7999) (the "Fifteenth Omnibus Claims Objection"). Pursuant to the Fifteenth Omnibus Claims Objection, the Debtors also objected to Proof of Claim No. 15683, filed by Specialty Coatings.

5. On June 18, 2007, Fry's Metal filed Fry's Metals, Inc., A Cookson Electronics Company's Response To Debtors' Fifteenth Omnibus Claims Objection (Docket No. 8317) (the "Response"). Specialty Coatings did not file a response to the Fifteenth Omnibus Claims Objection with respect to the Debtors' objection to Proof of Claim No. 15683 and Proof of Claim No. 15683 was disallowed and expunged.

6. On September 14, 2007, Specialty Coatings filed its Memorandum Of Law In Support For Motion For, Inter Alia, Reconsideration Pursuant To 11 U.S.C. 502(j) And Fed. Bankr. Rule 3008, Or Alternatively, To Vacate, Pursuant To Fed. Rule 60(b) And Fed. Bankr. Rule 9006, Order Signed On June 29, 2007 (Pacer Item 8443) Disallowing And Expunging Certain Claims Identified In Fifteenth Omnibus Claims Objection, Disallowing And Expunging, Inter Alia, Proof Of Claim No. 15683 Of Specialty Coatings, Inc. And Reinstatement Of Proof Of Claim Number 15683 (Docket No. 9362) (the "Motion to Reconsider Claim 15683").

7. On November 27, 2007, the Debtors filed the Notice Of Claims Objection Hearing With Respect To Debtors' Objections To Proofs Of Claim Nos. 15679 And 15681 (Fry's Metals, Inc., A Cookson Company) (Docket No. 11132), scheduling a claims objection hearing

(the "Claims Objection Hearing") for purposes of holding an evidentiary hearing on the merits of the Proofs of Claim for January 31, 2008. The Claims Objection Hearing was subsequently adjourned to a later date, pending ongoing settlement negotiations between the parties.

8. On December 4, 2007, the Debtors' filed Debtors' Statement Of Disputed Issues With Respect To Proofs Of Claim Numbers 15679 And 15681 (Fry's Metals, Inc., A Cookson Electronics Company) (Docket No. 11267) (the "2007 Statement Of Disputed Issues"). A copy of 2007 Statement Of Disputed Issues is attached hereto as Exhibit A and incorporated fully herein by reference.

9. On December 11, 2007, this Court held a hearing on, among other things, the Motion to Reconsider Claim 15683. At the hearing, the Debtors announced that they would withdraw the Fifteenth Omnibus Claims Objection so that Claim 15683 could be reinstated. In re Delphi Corp., Hr'g Tr. at 23-24, Dec. 11, 2007. The Debtors made clear, however, that resolving the Motion to Reconsider Claim 15683 "related to a reconciliation between affiliated suppliers of Fry's Metal and Specialty Coatings Systems." Id. at 23. Moreover, on account of the reconciliation, once Claim 15683 "is reinstated for Specialty Coatings, there will be a corresponding credit against the Fry's [Metal] account under the [Debtors] books and records." Id. at 24.

10. On January 23, 2008, Cabella, Byrne, Bain, Gilfillan, Cecchi, Stewart & Olstein, P.C., counsel to Fry's Metals and Specialty Coatings, sent a letter to this Court (the "Fry's January 23, 2008 Chambers Letter") requesting, among other things, that the Court adjourn the evidentiary hearing with respect to Claims and a teleconference with this Court to "provide the parties clarification as to the procedural mechanism in which the Debtors can seek its alleged affirmative claim."

11. On January 24, 2008, the Debtors responded to Fry's January 23, 2008 Chambers Letter (the "Response Letter To Chambers"). The Response Letter To Chambers addressed issues relating to the failure of Fry's Metals to comply with the procedures set forth in the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims (Docket No. 6089) (the "Claims Objection Procedures Order") and the proposed adjournment of the evidentiary hearing on the Claims.

12. On January 25, 2008, the Debtors and counsel to Fry's Metals and Specialty Coatings had a conference call with this Court. As a result of the call and the guidance received by this Court, the parties moved forward on a global settlement resolving (i) the Claims, (ii) the Motion to Reconsider Claim 15683 and (iii) the associated credit to the Debtors for wire transfers exceeding the balance owed to Fry's Metal in connection with the Claims. Subsequent attempts to negotiate an agreed order resolving these issues have proved unsuccessful. Accordingly, on June 8, 2010, the Reorganized Debtors re-noticed the Claims for a Claims Objection Hearing on August 12, 2010.

13. On October 6, 2009, the Debtors substantially consummated the First Amended Joint Plan Of Reorganization Of Delphi Corporation And Certain Affiliates, Debtors And Debtors-In-Possession, As Modified (the "Modified Plan"), which had been approved by this Court pursuant to an order entered on July 30, 2009 (Docket No. 18707), and emerged from

chapter 11 as the Reorganized Debtors.<sup>2</sup> Article 9.6(a) of the Modified Plan provides that "[t]he Reorganized Debtors shall retain responsibility for administering, disputing, objecting to, compromising, or otherwise resolving all Claims against, and Interests in, the Debtors and making distributions (if any) with respect to all Claims and Interests." (Modified Plan § 9.6.)

#### Disputed Issues

14. As set forth above, the 2007 Statement Of Disputed Issues is incorporated fully herein by reference.

A. Delphi And DAS LLC Do Not Owe Fry's Metal The Amount Asserted In The Claims

15. Fry's Metals has failed to adequately support its claims and establish that the Debtors owe an outstanding liability to Fry's Metals in the amount asserted in the Proofs of Claim. (See 2007 Statement Of Disputed Issues at ¶¶ 6-8.)

B. DAS LLC Has Overpaid Any Amounts Owed To Fry's Metals

16. Furthermore, Fry's Metals has introduced no evidence to rebut the Debtors' records provided to Fry's Metals and showing that due to overpayment, Delphi and DAS LLC (or their assigns, as applicable), are entitled to a credit in the amount of \$76,385.97 towards postpetition shipments for wire transfers exceeding the balance owed to Fry's Metal. (See 2007 Statement Of Disputed Issues at ¶¶ 6-8.)

#### Reservation Of Rights

17. This Amended Statement Of Disputed Issues is submitted by the Reorganized Debtors pursuant to paragraph 9(d) of the Claims Objection Procedures Order. Consistent with the provisions of the Claims Objection Procedures Order, the Reorganized

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<sup>2</sup> In connection with the consummation of the Modified Plan, Delphi, DAS LLC, Mechatronic and DCS each emerged from chapter 11 as DPH Holdings Corp., DPH-DAS LLC, DPH Mechatronic Systems, LLC and DPH Connection Systems, LLC, respectively.

Debtors' submission of this Amended Statement Of Disputed Issues is without prejudice to  
(a) the Reorganized Debtors' right to later identify and assert additional legal and factual bases  
for disallowance, expungement, reduction, or reclassification of the Claims and (b) the  
Reorganized Debtors' right to later identify additional documentation supporting the  
disallowance, expungement, reduction, or reclassification of the Claims.

WHEREFORE the Reorganized Debtors respectfully request that this Court enter an order (a) disallowing and expunging the Proofs of Claim Numbers 15679 and 15681, (b) granting the Reorganized Debtors (or such other party entitled to receive such credit pursuant to the Modified Plan) a credit in the amount of \$76,385.97 and (c) granting the Reorganized Debtors such other and further relief as is just.

Dated: New York, New York  
June 15, 2010

SKADDEN, ARPS, SLATE, MEAGHER  
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Attorneys for DPH Holdings Corp., et al.,  
Reorganized Debtors



Exhibit A

Hearing Date: January 31, 2008  
Hearing Time: 10:00 a.m. (Prevailing Eastern Time)

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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re	:	Chapter 11
	:	
DELPHI CORPORATION, <u>et al.</u> ,	:	Case No. 05-44481 (RDD)
	:	
Debtors.	:	(Jointly Administered)
	:	
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DEBTORS' STATEMENT OF DISPUTED ISSUES WITH RESPECT  
TO PROOFS OF CLAIM NUMBERS 15679 AND 15681  
(FRY'S METALS, INC., A COOKSON ELECTRONICS COMPANY)

("STATEMENT OF DISPUTED ISSUES – FRY'S METALS, INC.")



Delphi Corporation ("Delphi") and certain of its subsidiaries and affiliates, including Delphi Automotive Systems LLC ("DAS LLC"), debtors and debtors-in-possession in the above-captioned cases (collectively, the "Debtors"), hereby submit this Statement Of Disputed Issues (the "Statement Of Disputed Issues") With Respect To Proofs Of Claim Numbers 15679 And 15681 filed by Fry's Metals, Inc., a Cookson Electronics Company ("Fry's Metal") and respectfully represent as follows:

Background

1. On October 8 and 14, 2005 (the "Petition Date"), the Debtors, filed voluntary petitions under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as then amended, in the United States Bankruptcy Court for the Southern District of New York.

2. On July 31, 2006, Fry's Metal filed proof of claim no. 15679 ("Proof of Claim No. 15679") against Delphi. Proof of Claim No. 15679 asserts an unsecured non-priority claim in the amount of \$12,284.59 for the sale of goods ("Claim 15679").

3. On July 31, 2006, Fry's Metal filed proof of claim no. 15681 ("Proof of Claim No. 15681," together with Proof of Claim No. 15679, the "Proofs of Claim") against DAS LLC. Proof Of Claim No. 15681 asserts an unsecured non-priority claim in the amount of \$58,228.25 for the sale of goods ("Claim 15681," together with Claim 15679, "the Claims").

4. On May 22, 2007, the Debtors objected to the Claims pursuant to the Debtors' Fifteenth Omnibus Objection (Substantive) Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 3007 To Certain (A) Insufficiently Documented Claims, (B) Claims Not Reflected On Debtors' Books And Records, (C) Untimely Claims And Untimely Tax Claim, And (D) Claims

Subject To Modification, Tax Claims Subject to Modification, And Modified Claims Asserting Reclamation (Docket No. 7999) (the "Fifteenth Omnibus Claims Objection").

5. On June 18, 2007, Fry's Metal filed Fry's Metals, Inc., A Cookson Electronics Company's Response To Debtors' Fifteenth Omnibus Claims Objection (Docket No. 8317) (the "Response").

Disputed Issues

A. Delphi And DAS LLC Do Not Owe Fry's Metal The Amount Asserted In The Proofs Of Claim

6. Fry's Metal asserts in the Proofs of Claim that Delphi and DAS LLC owe Fry's Metal a total of \$70,512.84 for goods sold. Delphi and DAS LLC have reviewed the information attached to the Proofs of Claim and the Response and dispute the amount asserted in the Claims.

7. Wire Payments. During the weeks before the Petition Date, the Debtors implemented advance payment agreements to numerous vendors to ensure a continuous supply of parts and services. As such, delays and backlogs developed in the process used to post wire transfers to Delphi's and DAS LLC's main accounts payable system, which is called the Disbursement Analysis Control and Online Reporting System (or DACOR System). The DACOR System is used to pay all of Delphi's and DAS LLC's vendors as well as maintain all payable records. Additionally, the DACOR System distributes approvals to users, generates checks, prepares payment vouchers that are sent to vendors, automates journal entries and inputs those entries into the general ledger, and automates account distributions. The DACOR System will deduct advance payments from ordinary course payments if the advances are posted in time. In some instances, the delays in the DACOR System prevented wire transfer advances from

being posted to the DACOR System before the invoices came due. Here, the Debtors' records show that the amounts asserted in the Claims were not only paid in full, but in fact, Delphi and DAS LLC overpaid the amount owed to the Fry's Metal. Moreover, Delphi and DAS LLC are entitled to a credit in the amount of \$76,385.97 towards postpetition shipments for wire transfers exceeding the balance owed to Fry's Metal.

8. After taking into account the above-referenced deductions to the Proof of Claim, the Debtors reconciled the Proof of Claim as illustrated in the following chart:

<u>Claimant's Asserted Amount</u>		\$70,512.84
<u>Modifications</u>	Paid Invoices	(\$70,512.84)
	Overpayment	(\$76,385.97)
<u>Reconciled Amount</u>		(\$76,385.97)

#### Reservation Of Rights

9. This Statement Of Disputed Issues is submitted by the Debtors pursuant to paragraph 9(d) of the Order Pursuant To 11 U.S.C. § 502(b) And Fed. R. Bankr. P. 2002(m), 3007, 7016, 7026, 9006, 9007, And 9014 Establishing (i) Dates For Hearings Regarding Objections To Claims And (ii) Certain Notices And Procedures Governing Objections To Claims (Docket No. 6089) (the "Claims Objection Procedures Order"). Consistent with the provisions of the Claims Objection Procedures Order, the Debtors' submission of this Statement Of Disputed Issues is without prejudice to (a) the Debtors' right to later identify and assert additional legal and factual bases for disallowance, expungement, reduction, or reclassification of the

Claim(s) and (b) the Debtors' right to later identify additional documentation supporting the disallowance, expungement, reduction, or reclassification of the Claim(s).

WHEREFORE the Debtors respectfully request that this Court enter an order (a) disallowing and expunging the Proofs of Claim in their entirety, (b) granting the Debtors a credit in the amount of \$76,385.97 towards postpetition shipments, and (c) granting the Debtors such other and further relief as is just.

Dated: New York, New York  
December 4, 2007

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